

In re: Odidi et al.
Serial No. 09/845,497
Docket No. 9577-25

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Remarks/Arguments

In the specification, paragraphs 38 and 40 have been amended to remove reference to "microcrystalline cellulose". Claims 1, 6-9, 11, 15-17 and 21-34 remain in this application.

Specification Objection

The Examiner maintains his objection to the specification pertaining to new matter. The Examiner asserts that microcrystalline cellulose has many functions in the art and that microcrystalline cellulose does not always function as an extrusion aid. As a result, the Examiner cites that the amendment to the specification to include microcrystalline cellulose as an extrusion aid is new matter. Although Applicant respectfully disagrees, to expedite allowance of this application, the specification has been amended to remove reference to "microcrystalline cellulose". This amendment, however, does not limit in any way the interpretation of the term "extrusion aid" to exclude "microcrystalline cellulose".

Claim Rejections – 35 U.S.C. §112

Claims 1, 6-9, 11, 15-17 and 21-34 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner further asserts that the new matter in the body of the specification, e.g. "extrusion aid may be microcrystalline cellulose," will impact the scope of the "extrusion aid" mentioned in the claims even though the claims do not recite this matter. As recited in Applicant's response dated March 8, 2004, the term "extrusion aid" is well known in the pharmacological sciences and as a result, one of skill in the art would readily understand what an extrusion aid is and what type of material would be suitable as an extrusion aid. The term "extrusion aid" is described for example in the previously presented document (FMC Corporation, Product Brochure 2003). In this document, Avicel PH™ (microcrystalline cellulose) is clearly described as an extrusion aid. Moreover, it was well known in the prior art, before the priority date of the instant application, that microcrystalline

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cellulose is an extrusion aid (see U.S. Patents 4,980,062; 4,180,411 and 4,976,846). In addition, there is no teaching or suggestion in the instant application to exclude "microcrystalline cellulose" as an extrusion aid. Therefore, the interpretation of the term "extrusion aid" should and would not be so limited.

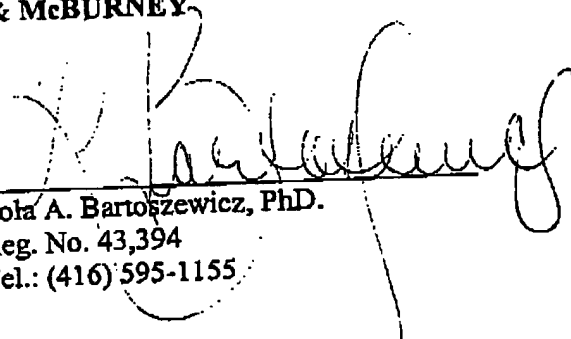
Conclusion

In view of the foregoing, reconsideration of the application, withdrawal of the outstanding rejections, allowance of Claims 1, 6-9, 11, 15-17, 21-34, and the prompt issuance of a Notice of Allowability are respectfully solicited.

Respectfully submitted,

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